

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5900-01
Bill No.: HB 1794
Subject: Employment Security; Disabilities; Boards, Commissions, Committees, Councils;
Labor and Industrial Relations Department
Type: Original
Date: March 15, 2012

Bill Summary: This proposal modifies the definition of employment as it relates to employment security law.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
UC Administration Fund	\$0 or (\$51,000,000)	\$0 or (\$51,000,000)	\$0 or (\$51,000,000)
Wagner-Peyser Admin Fund	\$0 or (\$18,000,000)	\$0 or (\$18,000,000)	\$0 or (\$18,000,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 or (\$69,000,000)	\$0 or (\$69,000,000)	\$0 or (\$69,000,000)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Labor and Industrial Relations** assume the federal government and state governments are jointly responsible for administering the unemployment insurance (UI) system. State laws must meet certain federal requirements for the state agency to receive the administrative grants needed to operate its UI program and for employers to qualify for certain tax credits.

This proposal would not include in-home or community-based services performed by a provider contracted to provide such services for the clients of a county board for developmental disability services in the definition of employment. These services may be required to be covered if they are in an employment relationship under Federal law.

Section 3304(a)(6)(A) of the Federal Unemployment Tax Act (FUTA) requires, as a condition for employers in a state to receive credit against the Federal tax, that Unemployment Compensation be payable based on certain services. Specifically, Unemployment Compensation must be payable based on services excepted from the Federal definition of employment (1) solely by reason of being performed for state and local governmental entities or federally recognized Indian tribes described in Section 3306(c)(7), FUTA, or (2) solely by reason of being performed for the nonprofit organizations described in Section 3306(c)(8), FUTA.

In the event that the provider has the right of direction and control, and is a state or local governmental entity or nonprofit organization or Indian Tribe, the services must be covered under the state's unemployment compensation program.

Thus, this proposal raises a non-conformity issue with federal law. Non-conformity with federal law could jeopardize the certification of Missouri's UI program. If the program fails to be certified, Missouri would lose approximately \$51 million in federal funds the state receives each year to administer the UI program and \$18 million in funds the Division of Workforce Development uses for Wagner-Peyser re-employment services.

The Federal Unemployment Tax Act (FUTA) imposes a 6.0% payroll tax on employers. Most employers do not actually pay the total 6.0% due to credits they receive for the payment of state unemployment taxes and for paying reduced rates under an approved experience rating plan. FUTA allows employers tax credits up to a maximum of 5.4% against the FUTA payroll tax if the state UI law is approved by the Secretary of Labor. However, if the proposed resolution causes Missouri's program to be out of compliance or out of conformity, Missouri employers would pay the full 6.0%, or approximately an additional \$868 million per year.

ASSUMPTION (continued)

In the event a provider is a regular for-profit employer, it would not be able to take credit against the FUTA tax for the excluded services and would be required to pay at the full 6.0% rate rather than the 0.6% rate applicable after the credit.

Officials at the **Department of Health and Senior Services, Department of Mental Health, Department of Social Services** and the **St. Louis County** assume there is no fiscal impact from this proposal.

Officials at the following counties: Andrew, Barry, Bates, Boone, Buchanan, Butler, Callaway, Camden, Cape Girardeau, Carroll, Cass, Clay, Cole, Cooper, DeKalb, Franklin, Greene, Hickory, Holt, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Marion, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Pemiscot, Perry, Phelps, Platte, Pulaski, Scott, St. Charles, St. Francois, Taney, Texas, Warren, Wayne and Webster did not respond to **Oversight's** request for fiscal impact.

Oversight assumes it is unclear if the state will have a conformity issue and therefore Oversight will show the loss of federal funds as \$0 or the potential loss of funds.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
UC ADMINISTRATION FUND			
<u>Loss - UC Administration Fund</u> loss of federal funds	<u>\$0 or</u> <u>(\$51,000,000)</u>	<u>\$0 or</u> <u>(\$51,000,000)</u>	<u>\$0 or</u> <u>(\$51,000,000)</u>
ESTIMATED NET EFFECT ON UC ADMINISTRATION FUND	<u>\$0 or</u> <u>(\$51,000,000)</u>	<u>\$0 or</u> <u>(\$51,000,000)</u>	<u>\$0 or</u> <u>(\$51,000,000)</u>
WAGNER-PEYSER ADMINISTRATION FUND			
<u>Loss - Wagner-Peyser Admin Fund</u> loss of federal funds	<u>\$0 or</u> <u>(\$18,000,000)</u>	<u>\$0 or</u> <u>(\$18,000,000)</u>	<u>\$0 or</u> <u>(\$18,000,000)</u>
ESTIMATED NET EFFECT ON WAGNER-PEYSER ADMINISTRATION FUND	<u>\$0 or</u> <u>(\$18,000,000)</u>	<u>\$0 or</u> <u>(\$18,000,000)</u>	<u>\$0 or</u> <u>(\$18,000,000)</u>

FISCAL IMPACT - Local Government

FY 2013
(10 Mo.)

FY 2014

FY 2015

\$0

\$0

\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

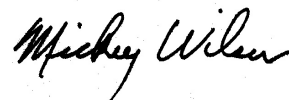
FISCAL DESCRIPTION

This proposal modifies the definition of employment as it relates to employment security law.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Mental Health
Department of Social Services
St. Louis County



Mickey Wilson, CPA
Director
March 15, 2012